IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF AUGUSY
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.10450 OF 2003

Between:

A.V.J.Prakash Narayana.

.... PETITIONER

AND

The Joint Director, Sub-Regional Office,
ESI Corporation, 2nd Floor, Padmanabha
Buildings, Gandhinagar, Vijayawada,
And two others.

....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.10450 OF 2003

O R D E R

The petitioner is the Proprietor of Nirmala Automobiles, Eluru. This writ petition is filed seeking a declaration that the notice dated 12.05.2003 issued by the third respondent – The Recovery Officer, Employees" State Insurance Corporation, calling upon the petitioner to show-cause as to why he should not be committed to civil prison in execution of the Certificate dated 16.01.2001 under which the petitioner is liable to pay a sum of Rs.35,377-20 Ps. towards the arrears under the E.S.I. Act (for short 'the Act'), is arbitrary and illegal.

It is vehemently contended by the learned counsel for the petitioner that since no enquiry was conducted as contemplated under Section 44 read with Section 45-A of the Act before issuing the recovery certificate dated 16.01.2001, the third respondent cannot initiate any steps under Section 45-D of the Act. It is also contended that since the impugned claim relates to the period 1984 to 1987, the proceedings are barred by limitation, and therefore, on that ground also the third respondent is not entitled to initiate any recovery proceedings.

At the outset, it is to be noted that the impugned notice is only a show-cause notice under which the petitioner is called upon to explain as to why he should not be committed to the civil prison in execution of

the recovery certificate dated 16.01.2007. In the circumstances, it is always open to the petitioner to raise all objections available under law, in which event the third respondent is bound to consider and pass an order either accepting or rejecting such objections.

In the circumstances, it is neither necessary nor proper for this Court to express any opinion on merits. Accordingly, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to submit his objections to the show-cause notice dated 12.05.2003 within a period of four weeks from the date of receipt of a copy of this order. On receipt of such objections, the third respondent shall consider the same and pass appropriate orders in accordance with law and communicate the same to the petitioner. Till such time, the respondents are directed not to take any coercive steps against the petitioner for recovery of the amounts demanded under the impugned show cause notice. No costs.

29th AUGUST, 2007

PGS

THE HON'BLE MS JUSTICE
G.ROHINI

WRIT PETITION NO.10450 OF 2003

29TH AUGUST, 2007